THE HONOURABLE SRI JUSTIVE C.V. RAMULU

WRIT PETITION NO. 2105 OF 2002

DATED: 17-11-2006

BETWEEN:

G. Venkaiah, S/o. Nagaiah
R/o. Sherkanpally village,
Nizamsagar Mandal and District
And 10 others

… Petitioners

And

1.Govt. of A.P. rep. by its Secretary, Irrigation Dept.
& six others.

… Respondents

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ORDER:

This writ petition is filed seeking a Mandamus directing the respondents to cause survey with regard to the lands situated in Narva, Venkatapur and Sherkanpally villages of Nizamsagar Mandal, Nizamabad district, which were submerged on account of the construction of Singitham Reservoir in Nizamabad District due to raising of the height of the bund and further to direct the respondents to acquire the lands by invoking the provisions of the Land Acquisition Act and pay compensation etc.

2. It is the case of the petitioners that they are the owners and possessors of various extents of lands in various survey numbers of Narva, Venkatapoor and Sherkanpally villages of Nizamsagar Mandal. While so, the bund of Singithem reservoir was raised in the year 1998. In view of raising of bund of Singitham reservoir, lands of the petitioners, which are located on the outer line of the reservoir are submerged at Full Reservoir Level(FRL) and they are not able to

cultivate the same during the kharif season, as a result of which the said lands became useless. The Government has neither acquired these lands by initiating the land acquisition proceedings nor paid any compensation. Therefore, the petitioners have made several representations before the District Collector and the Executive Engineer, I.B. Division, Nizamabad, who are respondents 6 and 4 herein. Since there was no response, petitioners got issued legal notice to the Chief Engineer, Irrigation and Command Area Development, Major Irrigation, Erra Manzil, Hyderabad. At that stage, the Revenue Divisional Officer, Bodhan addressed a letter to the Executive Engineer, IB Division, Nizamabad asking him to enquire into the matter personally and give a suitable reply to the legal notice. But, there was no response. Hence, the present writ petition.

3. The fourth respondent-Executive Engineer, I.B. Division, Nizamabad filed counter stating that the crust is raised only by 0.35 meters and the level of the water in the reservoir is being maintained at + 416.200 meters. Therefore, the claim of the petitioners that their lands are coming under submergence is not true and correct. Further, the water is never stored more than the level of + 416.200 meters. Therefore, the question of any damage being caused to the lands of the petitioners and invoking the proceedings under Land Acquisition Act etc. does not arise. However, along with the counter, the respondents also filed some correspondence between the Executive Engineer, Irrigation Department, I.B. Division, Nizamabad and the Superintending Engineer, ID, Irrigation Circle 3, Nizamabad dated 23-03-1999 wherein it has been stated that during 1998 flood season Singitham reservoir was maintained to only 416.200 level. The discharge in the F.F. canal (3,400 C/S) and the balance surplus through Weir was only instances. During the floods only, full reservoir level was over and above + 416.200 which would have been the same width at the construction of F.F. canal from Singitham reservoir. A part of the flood was diverted without effecting the F.R.L. and M.W.L. of

Singitham reservoir. It is to be reported that during the floods only, the reservoir level was over and above 416.20 but below 417.120 which would have been the same earlier to the construction of F.F. canal. Therefore, it was reported that the submergence or stranding water in the fields was only due to floods in the stream and the submergence or stranding water in the fields to the same depth is not due to the construction of F.F. canal system. The causes and extends of loss as averred in the legal notice are unbelievable.

4. This itself would indicate that whenever there are floods, the lands of the petitioners are being submerged and water is being stagnated in the fields. Even assuming that before the raising of the bund, the situation was the same, that itself does not mean that no damage was caused to the lands owned by the petitioners.

5. In view of the above, the District Collector is directed to reconsider the matter by conducting resurvey, if any necessary and pass appropriate orders for acquiring the lands of the petitioners as per law within a period of 3 months from the date of receipt of a copy of this order.

6. Writ petition is accordingly disposed of. No order as to costs.

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17-11-2006

Note:

Issue C.C. within one week.

B/O

Rns.

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Rns